Transplant and Donation of Organs in Islamic Perspective

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Abstract:

Transplantation of organs and its donation is a burning issue of the present time. It has been carried out in different ways for different purposes. No doubt, the medical field has a vital role in serving the human beings by introducing new means of treatments including the transplant of organs. In Islamic point of view the transplantation and donation of human organs is lawful only when it follows the objectives of Shariah. The human dignity is to be maintained in every movement of life. If practicing the transplant leads to human destruction and violation of its prestige and honor or paves the path to kidnapping, bargaining and immorality, then it should be avoided. Donation of organs, under the supervision of strict regulatory authority, will be beneficial. In this article, Islamic perspective on this issue has been brought forth.

KEY WORDS: Organ transplantation, dignity, consent, lifesaving, donation, Human body.

Organ donation is to render an organ to someone who has been suffering from failure of a body organ such as kidney, lungs, bone marrow, skin, eyes and liver etc.

On December 23, 1954, the first successful kidney transplant was carried out by Dr. Joseph Murray and Dr. David Hume at Brigham Hospital in Boston. In this surgery, the kidney of a donor Ronald Herrick was transplanted into his identical twin, Richard.[1]

Transplantation is one of the most challenging and complex areas of modern medication. Grafting and organ transplantation is an important issue nowadays. Amazing advancements have been made in the field of surgery and if an organ fails to work properly, surgeons transplant another organ from a living or dead person in order to save the life of that individual. All the vital organs like heart, kidneys and liver can be transplanted successfully. There are two types of organ donations:

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1. AUTOGRAFT: Organs and/or tissues that are taken from one place and are grafted to another place of the same person are called auto grafts.
2. ALLOGRAFT: Transplants that are performed between two subjects of the same species are called allograft.

Tissue may be recovered from donors who die of circulatory death, as well as of brain death - up to 24 hours past the cessation of heartbeat. Unlike organs, most tissues (with the exception of corneas) can be preserved and stored for up to five years, meaning they can be "banked". Transplantation raises a number of bioethical issues, including the definition of death, when and how consent should be given for an organ to be transplanted, and payment for organs of transplantation.

Such a donation helps saving life of another person. In this way organ transplants help recipients:

- » Heart transplants for patients with diseases such as Cardiomyopathy, congenital heart disease and coronary artery disease.
- » Lung transplants for patients who suffer from diseases such as Emphysema, Pulmonary Fibrosis, Cystic Fibrosis, or Pulmonary Hypertension
- » Liver transplants for patients with diseases like Hepatitis or Biliary Atresia.
- » Kidney transplants for patients with diseases such as Diabetes, Hypertension or polycystic kidney disease
- » Pancreas transplants to treat Diabetes
- » Intestine transplants for patients suffering from short bowel syndrome, among other disorders

These organs are usually donated by people voluntarily before they die or these are obtained from dead bodies that arrive the hospital after accidents if the identity of the deceased is unknown or he has no heirs. Transplant can also be done from one place to another place in the same body such as transplanting skin and cartilage. If the donor is alive, an informed consent must be taken and organ donation from a deceased person is carried out if the deceased has consented to it while he was still alive or if his next-of-kin has consented.

There are many advantages of Organ donation as it helps in saving the precious human life as Allah says in the Holy Quran:

مِنْ اَجْلِ ذٰلِكَ كَتَبْنَا عَلٰي بَنِيْٓ اِسْرَاۗءِيْلَ اَنَّه مَنْ قَتَلَ نَفْسًۢابِغَيْرِ نَفْسٍ اَوْ فَسَادٍ فِي الْاَرْضِ فَكَاَنَّمَا قَتَلَ النَّاسَ جَمِيْعًا ۭوَمَنْ اَحْيَاهَا فَكَاَنَّمَآ اَحْيَا النَّاسَ جَمِيْعًا ۭوَلَقَدْ جَاۗءَتْهُمْ رُسُلُنَا بِالْبَيِّنٰتِ ۡ ثُمَّ اِنَّ كَثِيْرًا مِّنْهُمْ بَعْدَ ذٰلِكَ فِي الْاَرْضِ لَمُسْرِفُوْنَ[2]

"Therefore, We ordained for the Children of Israel that he who slays a soul unless it be (in punishment) for murder or for spreading mischief on earth shall be as if he had slain all

mankind; and he who saves a life shall be as if he had given life to all mankind. And indeed again and again did Our Messengers come to them with clear directives; yet many of them continued to commit excesses on earth."

But we also have to consider the negative aspects of organ transplantation as Islam has ordered us to avoid things whose harmful aspects are far greater than its beneficial aspects. There are three ways in which organ transplantation is carried out:

1. Non-living prosthetic implants are used for this purpose.
2. Animal organs, tissues and cells are used.
3. Organs from other human beings are used whether alive or dead.

The use of metallic prosthetic implants has been proved from a Hadith narrated as:

عَنْ عَرْفَجَةَ بْنِ أَسْعَدَ أَنَّهُ أُصِيبَ أَنْفُهُ يَوْمَ الْكُلاَبِ فِي الْجَاهِلِيَّةِ فَاتَّخَذَ أَنْفًا مِنْ وَرِقٍ فَأَنْتَنَ عَلَيْهِ فَأَمَرَهُ النَّبِيُّ صلى الله عليه وسلم أَنْ يَتَّخِذَ أَنْفًا مِنْ ذَهَبٍ.[3]

"It was narrated from 'Arafah bin As'ad that: His nose was cut off at the battle of Al-Kulab during the Jahiliyyah, so he wore a nose made of silver, but it began to rot, so the Prophet [SAW] told him to wear a nose made of gold".

According to the aforementioned Hadith, it is proved that artificial implants can be used to replace damaged organs and to parts such as eyes, teeth etc. as Allah has given us the permission to seek benefit from the things He made for us in the Universe. As Allah says:

وَسَخَّرَ لَكُمْ مَّا فِي السَّمٰوٰتِ وَمَا فِي الْاَرْضِ جَمِيْعًا مِّنْهُ

He has subjected to you all that is in the heavens and the earth, the whole from Himself.[4]

There are different opinions of the scholars regarding the third method of organ transplantation mentioned above i.e. the use of organs of a healthy person in treating ill person. We find a direction to the third method from the thoughts of Islamic scholars as under:

Imam Shafie (d. 204H) and *Imam Ahmad*(d. 241H) allowed eating the flesh of *Mahdar*.[5]He, the *Imam Shafie*, said: "One may eat the flesh of a human body. It is not allowed to kill a Muslim nor a free non-Muslim under Muslim rule (because he is useful for the society), nor a prisoner, because he belongs to other Muslims, but you may kill an enemy fighter or an adulterer and eat his body, whether alive or dead." According to *Imam Shafie*, if a person is suffering and is in a miserable state he can cut a part of his body and eat it[6], while *Imam Abu Haneefa* (d. 150H) has forbidden it.[7]According to him, if a person is dying from starvation and hunger and other person offers him to cut and eat a part of his body, he is not allowed to do so and the other person is also not allowed to offer him his flesh to eat the way he himself cannot eat it. It is forbidden to cut and use organs of human body.[8]

Moreover,It is stated in *Al-Fatawaal-Hindiyya*:"If a person feared death due to hunger and another person said to him: "Cut my hand and consume it" or he said: "Cut a part of me and eat it", it will be unlawful for him to do so. Similarly, it is impermissible for a desperate person to cut part of his own self and eat it".[9]According to *Imam al-Marghinani*, it is forbidden to trade human hair. He states regarding the sanctity of a human: "It is unlawful to sell the hair of a human, as it is (unlawful) to take benefit out of it, for a human is honoured and sacred, and it is not permissible to disgrace any part of a human's body".[10]

The above scholars also take support from the following narration of *Hazrat Asma* (R. A):

أَنَّ امْرَأَةً، جَاءَتْ إِلَى رَسُولِ اللَّهِ صلى الله عليه وسلم فَقَالَتْ إِنِّي أَنْكَحْتُ ابْنَتِي، ثُمَّ أَصَابَهَا شَكْوَى فَتَمَرَّقَ رَأْسُهَا، وَزَوْجُهَا يَسْتَحِثُّنِي بِهَا أَفَأَصِلُ رَأْسَهَا فَسَبَّ رَسُولُ اللَّهِ صلى الله عليه وسلم الْوَاصِلَةَ وَالْمُسْتَوْصِلَةَ

> "*A woman came to Allah's Messenger and said, "I married my daughter to someone, but she became sick and all her hair fell out, and because of that her husband does not like her. May I let her use false hair?" On that the Prophet cursed such a lady as artificially lengthening (her or someone else's) hair or got her hair lengthened artificially*.[11]

Negative Aspects of Organ Donation:

The following are the negative aspects of Organ donation that require to be conceived:

1. Human body, whether alive or dead, enjoys a special honour and is inviolable as Almighty Allah says in the Holy Quran:

   وَلَقَدْ كَرَّمْنَا بَنِيْٓ اٰدَمَ وَحَمَلْنٰهُمْ فِي الْبَرِّ وَالْبَحْرِ وَرَزَقْنٰهُمْ مِّنَ الطَّيِّبٰتِ وَفَضَّلْنٰهُمْ عَلٰي كَثِيْرٍ مِّمَّنْ خَلَقْنَا تَفْضِيْلًا

   > *"And we have certainly honored the children of Adam and carried them on the land and sea and provided for them of the good things and preferred them over much of what We have created, with [definite] preference."*[12]

   Therefore, the human body should not be treated like animals. It is the insult of Allah's sacred creation.

2. It should not be practiced without the consent of donor. In other words, willingness of a live donor or will of a dead person is necessary in transplant.
3. Today, organs are obtained from dead bodies or other living humans voluntarily donating their organs but it is feared that it will become a business. People will sell their organs for money and the poor people of our society will have no other option except selling their organs. As per statement of *Dr.Farhat Moazzam*, in Pakistan, 40 percent to 50 percent

of the residents of some villages have only one kidney because they have sold the other for a transplant into a wealthy person, probably from another country.[13]

Other ethical issues include transplantation tourism and more the socio-economic context in which organ procurement or transplantation may occur. A particular problem is organ trafficking.[14]

The organ transplantation procedures in developing countries, raise many ethical concerns. Both the source and method of obtaining the organ transplant are major issues to be considered, as well as the notion of distributive justice.

The World Health Organization argues that transplantations promote health, but the notion of "transplantation tourism" has the potential to violate human rights or exploit the poor, to have unintended health consequences and to provide unequal access to services all of which ultimately may cause harm. Regardless of the "gift of life" in the context of developing countries, this might be coercive. The practice of coercion could be considered exploitative of the poor population, violating basic human rights according to Articles 3 and 4 of the Universal Declaration of Human Rights. There is also a powerful opposing view that trade in organs, if properly and effectively regulated ensure that the seller is fully informed of all the consequences of donation, is a mutually beneficial transaction between two consenting adults, and that prohibiting it would itself be a violation of Articles 3 and 29 of the Universal Declaration of Human Rights.[15]

4. Even after transplant most of the patients do not recover properly and some of them face rejection problem as their body rejects the transplanted organ.
5. Plastic surgery and many other treatment options are available to replace organ transplantation.
6. Grave is the final destiny of Human body after death just as Allah declared it in the following verse: ثُمَّ اَماتَه فَاَقْبَرَه *"Then He caused him to die and brought him to the grave".*[16]

The story of the two brothers, *Habeel* and *Qabeel*, also has been referred in *Quran* stating as:

فَبَعَثَ اللّٰهُ غُرَابًا يَّبْحَثُ فِي الْاَرْضِ لِيُرِيَهٗ كَيْفَ يُوَارِيْ سَوْءَةَ اَخِيْهِ ۭ قَالَ يٰوَيْلَتٰٓى اَعَجَزْتُ اَنْ اَكُوْنَ مِثْلَ هٰذَا الْغُرَابِ فَاُوَارِيَ سَوْءَةَ اَخِيْ ۚ فَاَصْبَحَ مِنَ النّٰدِمِيْنَ

> *"Thereupon Allah sent forth a raven that began to scratch the earth to show him how he might cover the corpse of his brother. So seeing he cried: 'Woe unto me! Was I unable even to be like this raven and find a way to cover the corpse of my brother? Then he became full of remorse at his doing."*[17]

So, if organ from a dead body is transplanted into other human, it's like disobeying Allah.

7. It is not permissible to subject human organs to sale under any circumstances.
8. It is forbidden to violate the sanctity of the deceased. It is narrated from *Hazrat Aishah (RA)* that the Messenger of Allah said:
   "كَسْرُ عَظْمِ الْمَيِّتِ كَكَسْرِهِ حَيًّا" *"Breaking the bones of a corpse is similar to breaking bones of someone who is alive."*[18]

   Thus, the same respect accorded to someone who is alive has to be accorded to someone who is deceased.

Despite all these harmful aspects, Organ donation is permissible in those conditions where the expected benefits outweigh any possible harm. It is permissible when all other treatment options have failed and the organ failure cannot be reversed. However, those organs on which life depends must not be transplanted. There should be no harm to the donor's life upon donating the organ. There must be no killing and trading of organs involved.

With regards to *Shariah* rulings:

1. It is permissible to transplant an organ from one place in a person's body to another place in the same body but attention must be paid to ensure that the expected benefits outweigh any possible harm. It is subject to the condition that this is done to replace a lost organ or body part or to restore its regular shape or function or to correct a fault or remove a deformity i.e. causing the person psychological or physical harm.
2. It is permissible to transplant an organ from the body of one person to another if it is an organ that renews itself automatically, such as blood and skin. But attention must be paid to the condition that the donor be fully qualified and fulfill the *shariah's* conditions.
3. It is permissible to make use of organs that have been taken from the body of another person due to sickness, such as taking the cornea from the eye of a person whose eye has been removed due to sickness.
4. It is *haraam*(forbidden) to transplant an organ on which life depends, such as transplanting the heart from a living person to another person.
5. It is *haram* (forbidden) to transplant an organ from a living person when its removal may cause an essential function to cease, even though his life does not depend on it, such as taking the corneas of both eyes. But if he will still have partial function after removing it, then the matter is subject to further discussion as we shall see below in section.[8]
6. It is permissible to transplant an organ from a dead person to a living person whose life or basic essential functions depends on that organ subject to the condition that permission be given by the deceased before his death, or by his heirs after his death or by the authorities in charge of the Muslims if the identity of the deceased is unknown or he has no heirs.
7. It should be noted that the agreement on the permissibility of organ transplants explained above is subject to the condition that this is not

done by selling the organs, because it is not permissible to subject human organs to sale under any circumstances.

8. As for the beneficiary spending money in order to obtain the required organ where necessary or offering compensation or honouring the donor, this is subject to *ijtihaad* and further discussion. [19]

The renowned scholar of Muslim world, *Dr. Yusuf Al-Qardhawi* explains as follow:

> *"Removing a body part from a corpse does not violate the sanctity of the dead. The sanctity of the body is preserved and has not been violated. This is because the operation performed on the corpse is similar to that done on those who are alive, that is with care, meticulousness and respect."*[20]

Dr. Ali Tantawi (d. 1999 AD) views about organ donation as follows:

> *"Live organ donations are permissible by consensus of jurists whether the recipient be his relative or a stranger, as long as such a donation is considered to be of benefited by a trusted doctor. Taking organs from the body of a dead person to transplant to someone who needs it whether to save his life or to cure him is permissible, and this ruling is also based on consensus of jurists."*[21]

In addition, organ donation is a continual (*jariah*) donation i.e. which reward for the donor is accrued even after his/her death. The Holy Prophet (P.B.U.H) has said:

أَنَّ رَسُولَ اللَّهِ صلى الله عليه وسلم قَالَ " إِذَا مَاتَ الإِنْسَانُ انْقَطَعَ عَمَلُهُ إِلاَّ مِنْ
ثَلاَثٍ صَدَقَةٌ جَارِيَةٌ وَعِلْمٌ يُنْتَفَعُ بِهِ وَوَلَدٌ صَالِحٌ يَدْعُو لَهُ

> *"All deeds of mankind will cease upon death, with the exception of three deeds; continuous charitable act, knowledge which had benefited others, and a pious offspring who offers prayers for his/her parent."* [22]

Sheikh Dr. MA Zakri Badawi, Principal Muslim College London expresses that:

> *"If you happened to be ill and in need of a transplant, you certainly would wish that someone would help you by providing the needed organ."*[23]

An alternative view clearly states that the saving of life is not absolute, but subject to the amount of cost that has to be borne. Therefore, although the above quotation enjoins the saving of life, this is not without restriction or caveat. According to a similarly large number of Muslim scholars, organ donation is not permitted. They consider that organ donation compromises the special honour accorded to man and this cannot be allowed whatever the cost. Scholars, such as the Islamic Fiqh Academy of India, allow live donations only.

Therefore, as per statement of *Mufti Zubair Butt*, it is clear that the Organ donation in Islam is a very personal choice and one should consider seeking the opinion of a scholar of their choosing.[24]

The Muslim Law (*Shariah*) Council UK issued a fatwa (religious ruling) on organ donation. The council resolved that "the council support organ transplantation as a means of alleviating pain or saving life on the basis of the rules of the *Shariah*. Muslims may carry donor cards. The next of kin of a dead person, in the absence of a card or an expressed wish to donate their organs, may give permission to obtain organs from the body to save other people's lives".

The aforesaid *fatwa* is based on the Islamic principle of الضرورات تبيح المحظورات (necessities overrule prohibition). The Muslim Law Council's UK *fatwa* draws on one of the basic objective of the *Shariah* which is known in Arabic as حفظ الحيوة (saving life).[25]

Conclusion:

Organ transplantation is permissible in Islam only if the donation will not lead to the death of the donor and where the benefits outweigh the harm. The Human dignity and sanctity of the deceased must not be violated. It should not always be considered as a first choice in treating a person, a medical practitioner must always consider other treatment options available as through advancement in the field of plastic surgery where many other treatment options are available. Organs upon which life depends and a person cannot survive without those organs must not be transplanted. There should be no trading of human organs in any way.

Recommendations:

1. A doctor must consider other treatment options before considering the option of transplant in treating the illness.
2. If the donor is alive, an informed consent must be taken and organ and where the donor is dead then his consent must be ascertained from his will or with the consent of his next-of- kin.
3. Human dignity requires that the corpses/dead bodies must be respected and surgeries must be carried out responsibly.
4. The contemporary scholars of Islam are of the opinion that transplantation, donations are not against the objective of *Shariah* but the instructions laid by Islam should be followed at all cost.

References:

[1]. Transplant pioneer Recall Medical milestone, http://www.npr.org /templates/ story/story.php?storyId=4233669, December 20th, 2004, retrievedon December 20th, 2010.

[2]. ALQur'an 5 :32

[3]. Imam Nasa'i, *Sunan an-Nasa'i*, Hadith 5164,Darul fikar Beirut, Lebanon, 2009

[4]. AlQur'an 45:13

[5]. Mahdar is a person whom killing is allowed in *sharia'ah Islamia*. e.g slaying a person the way he slew another man,killing a person who is disrespectful to the Prophet SAWW and a person who is a rebel against Islamic state. Islamic encyclopedia, Cairo Egypt

[6]. Abdul Qadir Audah, *Tasyri Al Jinai Al Islam*, Vol.1,p.578, Dar al- Kitab al-Arabi, Beirut Lebanon

[7]. FatawaAlamgiri,Vol.5,p.310, Egypt Cairo, 1978 (Fatawa Alamgeeri also known as Al-Fatawa Al-Hindiyyah, compiled by a group of scholars on the request of the Mughal Emperor Aurangzeb).

[8]. Abid, Vol.5,P.390

[9]. Burhan.al.DinAl.Farghani Al Marghinani, *Al Hidayah*, 4.39, Khabaria printing press Egypt 1975.

[10]. Fatawa Alamgeeri, Vol.1, p.310,Rashidia Printing Press Quetta, 1995

[11]. Imam Muslim, *Sahih Muslim*, Hadith No.2122,Dar.ul.fikar, Beirut Lebanon, 2006

[12]. AlQur'an 17:70

[13]. Said at a World Health Organization conference by Dr. Farhat Moazam, Member National Bioethics Committee & Chair, Health Care Ethics Committee (HCEC) in April, 2007. Source: Wikipedia.

[14]. "World Health Organization "Organ trafficking and transplantation pose new challenges." 2004 source Wikipedia the free encyclopedia.

[15]. Main articles: Ethics of organ transplantation and Declaration of Istanbul. Participants in the International Summit on Transplant Tourism and Organ Trafficking convened by The Transplantation Society and International Society of Nephrology in Istanbul, Turkey, 30 April to 2 May 2008. "The Declaration of Istanbul on Organ Trafficking and Transplant Tourism." Kidney International 74, no. 7 (2008): 854-59. http:/en.m.wikipedia.org

[16]. Al-Qur'an 80:21

[17]. Al-Qur'an 5:31

[18]. Ibne Majahm, *Sunane Ibne Majah*, Hadith No. 1684, Darul Fikr, Beirut, Leanon, 2006

[19]. Quoted from Resolutions of the Islamic Fiqh Council ,The Islamic Fiqh Council which convened in the fourth conference in Jeddah in the Kingdom of Saudi Arabia from 18-23 Safar 1408 AH/6-11 February 1988 CE

[20]. Dr. Yusuf Al-Qaradhawi, *"Fataawa Mu'asarah"*, p.532 .Ahya e Turas, Beirut.

[21]. Issued on 5th February 1989, when DrTantawi held the position of Mufti then.

[22]. Imam Tirmizi, *Jami` al-Tirmidhi*, Hadith 1376,Dar.ulfikar Beirut, Lebanon, 2009

[23]. Sheikh Dr MA Zaki Badawi, Principal, Muslim College, London

[24]. Mufti Mohammed Zubair Butt,Chair, Al-Qalam Shariah Panel. Muslim Council of Britain 2000.

[25]. The Muslim Law (Shariah) Council UK, established in October 1985 at a conference held on 19th- 20th October 1985 attended by more than 250 Imams, Muslim Scholars and representatives of Mosques and Muslim Organizations